

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:)	CHAPTER 13 CASE NO.: 10-55326
)	
)	JUDGE MARILYN SHEA-STONUM
ROBERT D. SWAIN)	
KERRY A. SWAIN)	
)	<input checked="" type="checkbox"/> ORIGINAL CHAPTER 13 PLAN
DEBTORS)	<input type="checkbox"/> AMENDED CHAPTER 13 PLAN**
)	<input checked="" type="checkbox"/> SEE PARAGRAPH 12 FOR SPECIAL PROVISIONS

ATTENTION CREDITORS - YOUR RIGHTS MAY BE AFFECTED.

You should read this plan carefully and discuss it with your attorney. Anyone who wishes to oppose any provision of this plan must file with the Court a timely written objection. This plan may be confirmed and become binding without further notice or hearing unless a timely written objection is filed. **Creditors must file a proof of claim with the Court in order to receive distributions under this plan. Absent an objection by the Debtor (s) or other party in interest, the Trustee shall pay claims as filed. Secured claims must have proof of security attached.**

** Reason Plan is Being Amended:

1. PLAN PAYMENTS

Within 30 days of the filing of this bankruptcy case, the Debtor or Debtors (hereinafter "Debtor") shall commence making monthly plan payments (the "Monthly Plan Payment") pursuant to 11 U.S.C. §1326(a)(1), as follows:

- A. **To the Chapter 13 Trustee (hereinafter "Trustee"):** \$125.00, payable in ☒ monthly ☐ semi-monthly ☐ bi-weekly ☐ weekly installments of \$125.00 each.
- _____ The Debtor is employed by _____ and shall make payment by payroll deduction.
- _____ The Debtor is self-employed and shall make payments to the Trustee by cashier check or money order.
- X The Debtor is retired and/or has (SSD and pension income) and shall make payments to the Trustee by check or money order.

The Debtors further propose to devote all annual income tax refunds greater than \$1,500 (Fifteen Hundred Dollars), excluding child care, educational, and earned income credits to the repayment of creditors under this plan.

2. ADEQUATE PROTECTION PAYMENTS

Concurrent with the filing of this plan, the Debtor (s) have filed an agreed entry with the Trustee authorizing the Trustee to make adequate protection payments to the following creditors.

Creditor	Account #	Address	Amount

3. ORDER OF DISTRIBUTION

After confirmation of this plan, funds available for distribution will be paid monthly by the Trustee in the following order: (i) Trustee's authorized percentage fee and/or administrative expenses; (ii) attorney fees as allowed under applicable rules and guidelines; (iii) monthly payments as provided for in Paragraphs 4, 5 and 6; (iv) priority domestic support obligation claims pursuant to 11 U.S.C. §507(a)(1); (v) other priority unsecured claims pursuant to 11 U.S.C. §507(a); and (vi) general unsecured claims. If the Trustee has received insufficient funds from the Debtor to make the monthly payment to secured creditors, the Trustee may use best efforts to pay secured creditors from the funds on deposit with the Trustee on the date of distribution. Should the Debtor (s)'s plan payments result in the completion of payments to unsecured and priority creditors while leaving a balance owing to secured creditors, the Trustee is authorized to remove the fixed monthly payment amounts to finish payment to secured creditors on a pro rata basis in order to expedite payment to the secured creditors.

4. CLAIMS SECURED BY REAL PROPERTY

A. Mortgage Arrearages and Real Estate Tax Arrearages

Trustee shall pay the monthly payment amount to allowed claims for mortgage arrearages and real estate tax arrearages in equal monthly payments. Trustee will pay interest on the mortgage arrearage if the proof of claim provides for interest, unless an objection to the claim is filed and an order is entered disallowing the requested interest. Note: The interest rate requested by the creditor must be stated on the front of the proof of claim. Debtor shall pay all post-petition mortgage payments and real estate taxes as those payments ordinarily come due beginning with the first payment due after the filing of the case.

<u>Creditor</u>	<u>Property Address</u>	<u>Estimated Arrearage Claim</u>	<u>Monthly Payment (Paid by Trustee)</u>
BAC Home Loan Servicing	815 Premiera Drive Tallmadge, OH 44278	\$3,300.00 (disputed)	

Debtors are reviewing and attempting a loan modification on first mortgage. Debtors' are also reviewing if they have a claim for predatory lending.

B. Liens and Other Claims secured by Real Estate

<u>Creditor</u>	<u>Property Address</u>	<u>Amount to be Paid Through the Plan</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
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5. CLAIMS SECURED BY PERSONAL PROPERTY

A. Secured Claims to be Paid Through the Plan:

Trustee shall pay the following claims in equal monthly payments.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Claim Amount</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
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6. FEDERAL TAX LIENS SECURED BY REAL AND PERSONAL PROPERTY

<u>Claim Amount</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
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NONE

7. DOMESTIC SUPPORT OBLIGATIONS

Debtor ☒ does ☐ does not have domestic support obligations pursuant to 11 U.S.C. §101(14A).

If the Debtor does have domestic support obligations:

The holder(s) of any claims for domestic support obligations pursuant to 11 U.S.C. §1302(d) are as specified below. If the holder of a claim is a minor, the name and address of the minor holder shall be disclosed to the Trustee contemporaneously with the filing of this plan in compliance with 11 U.S.C. § 112.

Holder

Name

Address

Deborah J. Swain 830 6th Street, N.E., North Canton, Ohio 44720

Trustee shall pay pursuant to 11 U.S.C. §507(a)(1) on a pro-rata basis the allowed arrearage claims for domestic support obligations. Debtor shall pay all post-petition domestic support obligations as those payments ordinarily come due.

Creditor

Name

Creditor

Address

Estimated
Arrearage
Claim

NONE

8. OTHER PRIORITY CLAIMS

Trustee shall pay pursuant to 11 U.S.C. §507(a) on a pro-rata basis other allowed unsecured priority claims.

Creditor

Claim
Amount

9. GENERAL UNSECURED CLAIMS

Unsecured Creditors shall be paid **3%** of timely filed and non disputed general non-priority unsecured claims. Plan period shall be for 60 months in order effectuate the terms of the plan. The plan may be modified to reduce payments or term of payments subject to Court order.

10. PROPERTY TO BE SURRENDERED

Debtor surrenders the following property no later than 30 days from the filing of the case unless specified otherwise in the plan. The creditor may file a claim for the deficiency and will be treated as a non-priority unsecured creditor. Any unsecured deficiency claim must be filed within 90 days that the property is surrendered to the creditor. A deficiency claim filed beyond the 90 days must be allowed by separate order of the Court.

Creditor

Property
Description

11. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

All executory contracts and unexpired leases are rejected except the following, which are assumed and shall be paid directly by the Debtor to the creditor:

<u>Creditor</u>	<u>Property Description</u>
Ford Motor Credit	Ford Escape

12. SPECIAL PROVISIONS

The Debtors shall attempt to make payments to Bank of America, who holds a first mortgage on the real estate located at 815 Premiera Drive, Tallmadge, OH, directly outside the Plan.

Debtors are reviewing and attempting a loan modification on first mortgage. Debtors are also reviewing if they have a claim for predatory lending.

The Debtors shall file a motion to avoid the second mortgage of BAC Home loan Servicing.

/S/ Robert D. Swain
Robert D. Swain

/S/ Kerry A. Swain
Kerry A. Swain

/S/ Robert S. Thomas, II
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